One Court of Justice
MICHIGAN SUPREME COURT
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FOR IMMEDIATE RELEASE

MICHIGAN SUPREME COURT TO HOLD LAST ORAL ARGUMENTS IN LAW BUILDING TOMORROW

LANSING, MI, May 7, 2002 – **Cases involving medical malpractice, worker's compensation, an insanity defense in a murder prosecution, and a dispute over Detroit property will be among the final oral arguments the Michigan Supreme Court will hear tomorrow in the G. Mennen Williams Building in Lansing, which the Court has occupied since 1970.**

In October 2002, the Court will move to a permanent location in the Hall of Justice, which will also house the Lansing offices and courtroom of the Michigan Court of Appeals, the State Court Administrative Office and other judicial branch agencies.

Twenty-six Justices have occupied the Williams Building, also known as the Law Building, noted Chief Justice Maura D. Corrigan.

"In the 32 years that the Court has been in this building, about 63,000 cases have been filed here," said Corrigan. "The opinions issued while the Court was housed here fill 83 volumes of the Michigan Supreme Court Reports. In this courtroom, some of the most significant legal arguments in Michigan's history have taken place, and the Court has issued some of its most important decisions from this building."

At 3 p.m., following the oral arguments, the Court will hold a ceremony to close the courtroom. Featured speakers will include State Bar of Michigan President Bruce Neckers, Solicitor General Thomas L. Casey, Rep. Jim Howell, Justice Michael Cavanagh, and former Chief Justice Dorothy Comstock Riley.

Court will be held **May 8** in the Supreme Court Room on the second floor of the G. Mennen Williams (a/k/a Law) Building. Court will convene at **9:30 a.m**. After a short break, court will resume at **12:30 p.m.**

(*Please note: The summaries that follow are brief accounts of complicated cases and might not reflect the way in which some or all of the Court's seven Justices view the cases. The attorneys may also disagree about the facts, the issues, the procedural history, or the*

significance of their cases. For further details about these cases, please contact the attorneys.)

Wednesday, May 8

PEOPLE v. PETIT

Attorney for defendant Linda Petit: Chari K. Grove/313.256.9833
Prosecuting attorney: Timothy Baughman/313.224.5792
At issue: The defendant asserted an insanity defense, and ultimately pled no contest to second-degree murder and felony firearm charges. At the sentencing hearing, did the trial judge err by not asking the defendant whether she wished to address the court before sentencing?
Background: Defendant Linda Petit shot and killed her sister, LuBrenda Jones, as Jones was entering her Detroit home with her handicapped adult daughter Wendy. Petit then called the police. Petit was arrested and charged with first-degree murder and felony-firearm. Petit raised an insanity defense. Prior to trial, she pled nolo contendere but mentally ill to reduced charges of second-degree murder and felony-firearm. At the plea proceeding, defense counsel indicated that Petit's reason for pleading no contest was that Petit wanted to avoid civil liability and could not remember clearly what happened. Petit declined to speak with the presentence report preparer. As a part of the bargain, there was a sentence agreement to impose nothing more nor less than 16½ to 40 years in prison on the second-degree murder plus 2 years for felony-firearm. Wayne County Circuit Judge Deborah Thomas accepted the plea. At the sentencing hearing, Petit's attorney allocuted on Petit's behalf. Judge Thomas asked if there was anything further before imposing the 16½ to 40-year plus 2-year sentence. Petit appealed and asked to be re-sentenced. She argued that the judge erred by not inviting Petit to allocute (advise the court of any circumstances the defendant believes the court should know before imposing sentence) on her own. The Court of Appeals denied Petit's application for leave to appeal. Petit appealed to the Supreme Court; the prosecution did not answer to oppose her leave application. Petit argues that she is entitled to re-sentencing under Michigan Court Rule 6.425. MCR 6.425 states in part that the court must "give the defendant, the defendant's lawyer, the prosecutor, and the victim an opportunity to advise the court of any circumstances they believe the court should consider in imposing sentence." Petit also argues she should be re-sentenced because the trial judge did not refer to the sentencing guidelines and never gave a reason for the sentence at the hearing.

COX v. BOARD OF HOSPITAL MANAGERS FOR THE CITY OF FLINT

Plaintiffs' attorneys: Richard D. Toth/248.355.0300, Stephen N. Leuchtman/313.884.6600
Defendant's attorneys: Robert P. Roth, Marc S. Berlin/248.647.4242
At issue: Did the trial judge properly instruct the jury in this medical malpractice case?
Background: This medical malpractice case has a complicated procedural history. The case arises from an accident in a neonatal intensive care unit at Hurley Hospital. A tube came free from the abdomen of a premature infant, causing the child to lose half his blood. The child's parents sued the hospital, and a doctor who is not involved in this appeal, in Genesee County Circuit Court. The plaintiffs argued that their child's cerebral palsy and mild retardation were caused by the negligence of one or more care-givers in the unit. A jury found in favor of the plaintiffs and awarded damages of $2.4 million. The Court of Appeals ultimately upheld the jury verdict. The hospital appeals, making four arguments:
1) Genesee County Circuit Judge Earl Borradaile, who presided at the trial, instructed the jury

about the negligence of the hospital unit where the injury happened, rather than about the negligence of one or more individual professionals. The hospital says that professional malpractice can only be committed by individuals, not by a "unit" within the hospital. Judge Borradaile also erred by deleting the word "ordinary" from the phrase "learning, judgment, or skill" in the standard jury instruction, the hospital claims.
2) The judge failed to instruct the jury to apply a local standard of care in evaluating the professional conduct of the nurse who may have caused the harm.
3) By applying a national standard of care, rather than a local standard, the judge also erred by allowing the plaintiffs' expert witnesses to testify. Those witnesses could not address the local standard of care, the hospital contends.
4) The hospital's appellate counsel also argues that he was unfairly maligned by a Court of Appeals majority opinion.

The plaintiffs argue that any errors the trial judge made as to the first and second issues were harmless and do not require reversal. They also contend that there is no "local" versus "national" standard of care at issue. As to the final issue, the plaintiffs state that the majority "drew proper conclusions from the record and expressed legitimate reservations concerning the unorthodox manner in which defendant pursued its appellate remedies."

HILL v. FAIRCLOTH MANUFACTURING
FRAZZINI v. TOTAL PETROLEUM
Attorney for defendant Faircloth Manufacturing: Gerald S. Marcinkoski/248.433.1414
Attorney for intervening plaintiff AAA of Michigan: Jane S. Colombo/248.548.8540
Attorneys for plaintiff Jeffrey Frazzini: Richard B. Jenks/248.569.5589, Darryl Royal/313.730.0055
Attorneys for defendant Total Petroleum: Gregory A. Block, Marshall W. Grate/616.285.8899
Attorney for intervening plaintiff AAA of Michigan: Daniel S. Saylor/313.446.5520
At issue: Can workers recover for injuries they suffered in accidents – where the accidents were triggered by the workers' diabetes?
Background: In the *Hill* case, Jack Hill rear-ended a truck when he suffered a diabetic seizure while driving his employer's delivery truck. A worker's compensation magistrate found that Hill's seizure caused the accident. Therefore, Hill's injuries, including multiple bone fractures and a concussion, did not "arise out of" his employment, the magistrate stated. The Worker's Compensation Appellate Commission (WCAC) affirmed the magistrate's ruling.

In *Frazzini*, plaintiff Jeffrey Frazzini claims he was driving his car on a work-related errand when he suffered a diabetic insulin reaction. He suffered a serious hip injury when his car left the road, hit several traffic signs and struck an embankment. The magistrate awarded benefits, finding that Frazzini suffered injuries arising out of and in the course of his employment. The WCAC reversed, finding that Frazzini's seizure caused the accident and, therefore, his injuries did not arise out of his employment.

The two cases were consolidated before the Court of Appeals. The plaintiffs admitted that their seizures caused the accidents. They argued that, because their employment placed them in a position that increased the dangerous effects of their seizures and aggravated their injuries, the injuries arose out of their employment within the meaning of the Workers' Disability Compensation Act. The Court of Appeals agreed and ruled that the plaintiffs were entitled to benefits. The defendants, the plaintiffs' employers, appeal.

Break - Court resumes at 12:30 p.m.

CITY OF DETROIT v. ADAMO
Attorneys for City of Detroit: Ruben Acosta, Coquese S. Wilson/313.963.3873
Attorney for defendants Peter Adamo, Andiamo, Inc., and 5900 Associates, L.L.C: Todd M. Halbert/248.356.6204
Attorneys for intervening plaintiff State of Michigan: Thomas L. Casey, Robert P. Reichel/517.373.7540
At issue: Do the defendants have a right to redeem property that became the property of the State of Michigan at a tax sale? The former owners quit-claimed the property to defendant Peter Adamo after the tax sale, but before the state had given the notice required by the redemption statute to all owners having an interest in each of the parcels. A trial judge and the Court of Appeals ruled that the period for redeeming the property had not expired, so Adamo had a right to redeem the property. The City of Detroit argues that the ruling will reward delinquent taxpayers and have disastrous consequences for the tax foreclosure process.
Background: This case concerns two parcels of abandoned industrial property in Detroit that became the property of the State of Michigan when no one bid on them at a tax sale. According to the City of Detroit, the two parcels were former industrial sites contaminated with hazardous substances, and the State began expending millions of dollars cleaning up the parcels to make them environmentally safe. In 1996, defendant Peter Adamo obtained quitclaim deeds to the two parcels from the former owners. Adamo allegedly began illegal dumping on the properties. The City of Detroit brought an action in Wayne Circuit Court against Peter Adamo, Andiamo, Inc., and 5900 Associates, L.L.C., to prevent the defendants from entering onto and dumping onto the two parcels. The State of Michigan was allowed to intervene in the suit. The defendants obtained the quitclaim deeds after the tax sale, but before the state had given the notice required by the redemption statute to all owners having an interest in each of the parcels. Because the state had not yet sent notice, the period for redeeming the property had not expired when Adamo obtained the quitclaim deeds, the defendants argued. Accordingly, the defendants had a right of redemption, they claimed. Wayne County Circuit Judge Marianne O. Battani agreed and entered an order granting summary disposition to the defendants. The Court of Appeals affirmed in a published decision. The City of Detroit appeals. The City argues in part that legislation that went into effect in 1999, and was made retroactive to 1976, defeats the defendants' redemption claim. The Court of Appeals' ruling effectively permits a property owner to ignore redemption notices and extend the statutory redemption period because other property owners were not notified, the City argues.

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